

# OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

*Edited by*

**FRANCIS HEMMING, C.M.G., C.B.E.**

Secretary to the Commission

**VOLUME 15. Part 22. Pp. 393—418**

## **OPINION 456**

Rejection of the work by Thomas Martyn published in 1784 with the title *The Universal Conchologist* as a work which does not comply with the requirements of Article 25 of the *Règles* and which therefore possesses no status in zoological nomenclature and rejection also of a proposal that the foregoing work should be validated under the Plenary Powers

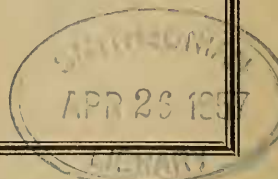
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# INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

## COMPOSITION AT THE TIME OF THE ADOPTION OF THE RULING GIVEN IN OPINION 456

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(12th August 1953)

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*Secretary* : Mr. Francis HEMMING (*London, England*) (27th July 1948)

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(Arranged in order of precedence by reference to date of election or of most recent re-election,  
as prescribed by the International Congress of Zoology)

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(1st January 1947)

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Mr. Francis HEMMING (*London, England*) (27th July 1948) (*Secretary*)

Dr. Henning LEMCHE (*Universitetets Zoologiske Museum, Copenhagen, Denmark*) (27th  
July 1948)

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Professor Tadeusz JACZEWSKI (*Institute of Zoology, Polish Academy of Sciences, Warsaw, Poland*) (15th June 1950)

Professor Robert MERTENS (*Natur-Museum u. Forschungs-Institut Senckenberg, Frankfurt a.M., Germany*) (5th July 1950)

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Dr. L. B. HOLTHUIS (*Rijksmuseum van Natuurlijke Historie, Leiden, The Netherlands*)  
(12th August 1953)

Dr. K. H. L. KEY (*Commonwealth Scientific and Industrial Research Organisation, Canberra, A.C.T., Australia*) (15th October 1954)

Dr. Alden H. MILLER (*Museum of Vertebrate Zoology, University of California, U.S.A.*)  
(29th October 1954)

Doc. Dr. Ferdinand PRANTL (*Národní Museum v Praze, Prague, Czechoslovakia*) (30th October 1954)

Professor Dr. Wilhelm KÜHNELT (*Zoologisches Institut der Universität, Vienna, Austria*)  
(6th November 1954)

Professor F. S. BODENHEIMER (*The Hebrew University, Jerusalem, Israel*) (11th November 1954)

Professor Ernst MAYR (*Museum of Comparative Zoology at Harvard College, Cambridge, Massachusetts, U.S.A.*) (4th December 1954)

Professor Enrico TORTONESE (*Museo di Storia Naturale "G. Doria", Genova, Italy*)  
(16th December 1954)

## OPINION 456

REJECTION OF THE WORK BY THOMAS MARTYN  
PUBLISHED IN 1784 WITH THE TITLE "THE  
UNIVERSAL CONCHOLOGIST" AS A WORK WHICH  
DOES NOT COMPLY WITH THE REQUIREMENTS  
OF ARTICLE 25 OF THE "REGLES" AND WHICH  
THEREFORE POSSESSES NO STATUS IN  
ZOOLOGICAL NOMENCLATURE AND  
REJECTION ALSO OF A PROPOSAL THAT  
THE FOREGOING WORK SHOULD BE  
VALIDATED UNDER THE PLENARY  
POWERS

**RULING :—**(1) It is hereby ruled that the work by Thomas Martyn published in London in 1784 under the title *The Universal Conchologist* does not comply with the requirements of Article 25 of the *Règles* and therefore that this work possesses no status in zoological nomenclature.

(2) The request that the names in the foregoing work be validated *en bloc* under the Plenary Powers is hereby rejected, but consideration will be given to applications for the validation of individual names as published in the above work, if submitted by specialists with adequate data regarding the names concerned.

(3) The title of the work specified in (1), as there rejected for nomenclatorial purposes, is hereby placed on the *Official Index of Rejected and Invalid Works in Zoological Nomenclature* with the Title No. 55.

## I. THE STATEMENT OF THE CASE

On 19th October 1951 five New Zealand zoologists submitted to the International Commission on Zoological Nomenclature an application on the subject of the status of the specific names used by Thomas Martyn in *The Universal Conchologist*, a work which was published in London in four volumes and in more than one edition, the date of publication of the first volume of the first edition being 1784. The specialists by whom this application was submitted were: (i) R. K. Dell (*Dominion Museum, Wellington, New Zealand*); (ii) C. A. Fleming (*Geological Survey of New Zealand, Wellington, New Zealand*); (iii) C. R. Laws (*Department of Geology, Auckland University College, Auckland, New Zealand*); (iv) J. Marwick (*Geological Survey of New Zealand, Wellington, New Zealand*); (v) A. W. B. Powell (*Auckland Institute and Museum, Auckland, New Zealand*). In the paper so submitted the foregoing specialists (1) discussed the investigations of previous workers and themselves reached the conclusion that in *The Universal Conchologist* Martyn did not apply the principles of binominal nomenclature and therefore that new names used in it were not available for the purposes of zoological nomenclature, (2) drew attention to the fact that certain of the names in Martyn's book has been treated as the valid specific names for well-known species of New Zealand Mollusca for many years, and (3) asked that, without prejudice to the submission of parallel applications by Australian specialists in respect of Martyn names for species belonging to the Australian Fauna, the International Commission should use its Plenary Powers to validate the specific names given by Martyn to eighteen species of the New Zealand fauna. The application so submitted was subsequently expanded by the applicants in certain respects. In its final form it was submitted to the Office of the Commission on 19th May 1952. Later, for the reasons explained in paragraph 13 of the present *Opinion* it was decided to deal separately with the question on the one hand of the status to be accorded for nomenclatorial purposes to Martyn's book *The Universal Conchologist* and on the other hand with the question of the status to be accorded to the eighteen specific names which formed the subject of the remaining part of the application submitted by the specialists referred to above. The present *Opinion* is concerned only with the first of these subjects.

This portion of the subject was dealt with in paragraph 2 of the application submitted, the formal request made to the Commission on this subject being set out in paragraph 6(a). The foregoing portions of the application so submitted were as follows :—

**Proposed use of the Plenary Powers to conserve specific trivial names  
of New Zealand Mollusca published in Thomas Martyn's  
" Universal Conchologist " (1784)**

By

R. K. DELL

*(Dominion Museum, Wellington, New Zealand)*

C. A. FLEMING

*(Geological Survey of New Zealand, Wellington, New Zealand)*

C. R. LAWS

*(Department of Geology, Auckland University College,  
Auckland, New Zealand)*

J. MARWICK

*(Geological Survey of New Zealand, Wellington, New Zealand)*

and

A. W. B. POWELL

*(Auckland Institute and Museum, Auckland, New Zealand)*

. . . . .

**2. Availability of names in Martyn's " Universal Conchologist " :**  
According to Dall (1905 : 426), E. von Martens (1860) discussed Martyn's work and concluded that his generic names should be rejected but that his specific names might stand. Sherborn (1902) accepted Martyn's specific names. Dall himself (1905, 1907) after full discussion and a little hesitation accepted Martyn's generic and specific names. Iredale (1921) recorded discrepancies between different copies of Volume 4 of the *Universal Conchologist*. Winckworth (1929) re-examined the question of the availability of Martyn's names ; suggested " that the numerous small explanations required to read binominal



intention into his tables ask for more guess work than is reasonable" ; and concluded " that one must most reluctantly disregard his beautiful work as far as nomenclature is concerned ". Iredale (1930 : 77) wrote : " The acceptance of the names given by Martyn in the *Universal Conchologist* has been a source of much trouble, and Winckworth's conclusion that, as Martyn was not using a binominal nomenclature in the explanation to the plates, Martyn's names be rejected, is herewith confirmed. The beautiful figures provided by Martyn have never been excelled, but his proposed system of nominating them was never published, and the recognition of Martyn's temporary names has caused much confusion without creating any benefit." A. Myra Keen (1937 : 22) stated that " there is considerable room for doubting the nomenclatural availability of Martyn's species ", but tentatively accepted one of his species " pending a decision by the International Commission on Zoological Nomenclature on the validity of Martyn's work ". Powell (1946 : 64) noted that " the status of Thomas Martyn's names, *Universal Conchologist*, 1784, is in doubt, but it seems clearly a case for a ruling by the International Commission on Zoological Nomenclature ", and continued to use Martyn's names pending a definite decision. The above opinions are quoted because it is difficult for the present writers, with limited library resources, to form an independent opinion of the availability of Martyn's work. It appears, however, that under strict application of the *Règles*, the names in Martyn's *Universal Conchologist* are not available under Proviso (b) to Article 25 and some parts of the work may also be invalid under the new provision concerning publication (*Bull. zool. Nomencl.* 4 (7/9) : 218).

. . . . .

**6. Application for the use of the Plenary Powers :** In the light of the considerations set forth above and in order to avoid the confusion which would follow the strict application of the normal rules in the present case, the International Commission on Zoological Nomenclature is asked :—

- (1) to give a ruling that in his *Universal Conchologist* published in 1784 Thomas Martyn did not consistently apply the principles of binominal nomenclature, as required by Article 25 of the *Règles*, as amended by the Thirteenth International Congress of Zoology (see 1950, *Bull. zool. Nomencl.* 4 : 64—66) and therefore that no name published in the foregoing work acquires availability in zoological nomenclature in virtue of having been so published ;

. . . . .

### References

- DALL, W. H., 1905. Thomas Martyn and the *Universal Conchologist*. *Proc. U.S. nat. Mus.* 29 : 415—432

- DALL, W. H., 1907. Supplementary Notes on Martyn's Universal Conchologist. *Proc. U.S. nat. Mus.* **33** : 185—192
- IREDALE, T., 1921. Unpublished Plates of Thomas Martyn, Conchologist. *Proc. malac. Soc. Lond.* **14** (4) : 131—134
- IREDALE, T., 1930. Queensland Molluscan Notes. No. 2. *Mem. Queensland Mus.* **10** (1) : 73—88
- \* KEEN, A. M., 1937. Nomenclatural Units of the Pelecypod Family Cardiidae. *Bull. Mus. Hist. nat. Belg.* **13** (7) : 1—22
- MARTENS, E. VON, 1860. *Malakozoologische Blätter* **7** : 141—148
- MARTYN, THOMAS, 1784. *The Universal Conchologist*, London **1** : figs. 1—40 ; **2** : figs. 41—80
- POWELL, A. W. B., 1946. *The Shellfish of New Zealand* (2nd Ed.), Whitcombe and Tombs, Ltd.
- SHERBORN, C. D., 1902. *Index Animalium*, Sectio Prima, Cambridge
- WINCKWORTH, R., 1929. Notes on Nomenclature. *Proc. malac. Soc. Lond.* **18** (5) : 224—229

## II. THE SUBSEQUENT HISTORY OF THE CASE

**2. Registration of the present application :** Upon the receipt of the application referred to in the immediately preceding paragraph the question of the status to be accorded to Thomas Martyn's work entitled *The Universal Conchologist* and the possible use of the Plenary Powers for the purpose of validating the specific names published in that work for eighteen species of Mollusca belonging to the New Zealand Fauna was allotted the Registered Number Z.N.(S.) 634.

**3. Publication of the present application :** The application referred to above was sent to the printer on 22nd June 1952 and was published on 23rd July of the same year in Part 9 of Volume 6 of the *Bulletin of Zoological Nomenclature* (Dell (R.K.) *et al.*, 1952, *Bull. zool. Nomencl.* 6 : 273—277).

**4. Issue of Public Notices :** Under the revised procedure prescribed by the Thirteenth International Congress of Zoology, Paris, 1948 (1950, *Bull. zool. Nomencl.* 4 : 51—56), Public Notice of the possible use by the International Commission on Zoological Nomenclature of its Plenary Powers in the present case was given on 23rd July 1952 (a) in Part 9 of Volume 6 of the *Bulletin of Zoological Nomenclature* (the Part in which the application by Dr. Dell and his colleagues was published) and (b) to the other prescribed serial publications. In addition such Notice was given also to four general zoological serial publications and to certain specialist serial publications.

**5. Comment received during the Prescribed Six-Month Waiting Period :** During the Prescribed Six-Month Waiting Period following the publication of the application in this case no comments in regard to it were received until ten days before the close of that period a letter was received in the Office of the Commission (on 13th January 1953) from Dr. Joshua L. Baily, Jr. (*San Diego, California, U.S.A.*) asking that further time should be given for the examination of the issues raised by the foregoing application, in order to make possible the consideration of the question whether certain familiar specific names for other species introduced by Martyn in *The Universal Conchologist* ought also to be brought to the attention of the International Commission with a view to their validation under the Plenary Powers.

**6. Request received in January 1953 from Joshua L. Baily, Jr. for a temporary postponement of the consideration of the present application in order to provide an opportunity for the submission of a counter-proposal:** The following is the letter dated 8th January 1953 referred to in paragraph 5 above in which Dr. Joshua L.



Baily, Jr. asked for a temporary postponement of the consideration of the application submitted in this case, in order to provide an opportunity for the preparation and submission to the International Commission of a counter-proposal in relation to the matters dealt with therein<sup>1</sup> :—

This is to request that no other action be taken on the suppression of Martyn's Universal Conchologist until opportunity has been given for further examination of this work to see how many of its names might be placed on the *Official List* first.

Those who have petitioned for the suppression of this work in Application Z.N.(S.) 634 have also asked for the retention of many of the names in it. The fact remains that although this work does not comply with the requirements now embodied in the rules, the names proposed in it have come into general use, and are universally understood, and that to rule this work out now after nearly two centuries of use would compel many changes of names that would be undesirable and would be most confusing.

**7. Extension in January 1953 of the Prescribed Waiting Period for a Period of one year :** At the close of the Prescribed Six-Month Waiting Period on 23rd January 1953 the present case was reviewed by the Secretary who that day executed a Minute in which, (1) he took note that the only comment in relation to the present case received during the Prescribed Waiting Period was the letter from Dr. Joshua L. Baily, Jr. reproduced in paragraph 6 of the present *Opinion* which had then recently reached the Office of the Commission and in which an extension of the Waiting Period had been asked for with a view to the submission of a Supplementary Application, and (2) gave directions that for the reasons explained in (1) above the Prescribed Waiting Period for the present case be extended for a period of one year, so that instead of closing on 23rd January 1953 it should continue to run until 23rd January 1954.

**8. Comments received after the extension of the Prescribed Waiting Period to January 1954 :** During the twelve-month

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<sup>1</sup> For the counter-proposal here foreshadowed see paragraph 10 of the present *Opinion*.

period following the extension of the Prescribed Waiting Period in the present case (paragraph 7 above) three communications were received in regard to the present case. In the first of these Dr. K. S. Misra (*Zoological Survey of India, Calcutta*) expressed the view that all specific names in *The Universal Conchologist* of Thomas Martyn were acceptable in so far as the descriptions given for the species concerned were correct and unambiguous. In the second Dr. Joshua L. Baily, Jr., writing jointly with Mr. S. Stillman Berry (*Redlands, California, U.S.A.*), (1) set out the view that *The Universal Conchologist* of Martyn could properly be regarded as complying with the requirements of Article 25 of the *Règles* and should therefore be accepted for nomenclatorial purposes but (2) added that, if the foregoing view were not to prove acceptable to the International Commission, it was desired that eleven specific names of Martyn's listed in a table annexed to that letter should be validated under the Plenary Powers. The third communication received was a letter from Mr. E. P. Chace (*Lomita, California, U.S.A.*), which was signed also by a number of other workers, in which the view was put forward that *The Universal Conchologist* of Martyn was a nomenclatorially available work and should, it was urged, be accepted as such. Shortly after the close of the Prescribed Waiting Period, as extended to 23rd January 1954 and before any further action had been taken on the present case a letter was received from Professor Harold E. Vokes (*The Johns Hopkins University, Baltimore, Maryland, U.S.A.*), a Member of the International Commission, in which (a) he expressed his agreement with the proposal that *The Universal Conchologist* should be rejected as not being available for nomenclatorial purposes which had been submitted by the applicants in the present case (paragraph 1 of the present *Opinion*), (b) criticised in detail the proposals submitted in the foregoing application for the validation under the Plenary Powers of the specific names for certain New Zealand species of Mollusca submitted with that application, and (c) asked that, when that application was submitted to the International Commission for decision, an opportunity should be provided for the taking of a vote on the question of the availability under Article 25 of the *The Universal Conchologist* as an issue separate from that raised by the proposal for the validation of the specific names for certain New Zealand species figured in the above work which had been included in the same application.

The documents discussed above are reproduced in the immediately following paragraphs.

**9. Comment received from K. S. Misra (Zoological Survey of India, Calcutta) :** On 22nd January 1953 Dr. K. S. Misra (*Zoological Survey of India, Calcutta*) addressed a letter to the Office of the Commission commenting upon four applications at that time before the International Commission, of which the fourth was the application with which the present *Opinion* is concerned. Dr. Misra's comment on this case was as follows :—

*Martyn, 1784, Universal Conchologist (Ph. Mollusca)* (Validation of the trivial names published in *arabicum . . . vermis*). All the trivial names may be validated in those cases where Martyn's diagrams of the species are correct and unambiguous.

**10. Counter-proposal in favour of the acceptance of the work by Thomas Martyn entitled "The Universal Conchologist" as an available work submitted by Joshua L. Baily, Jr. (San Diego, California, U.S.A.) and S. Stillman Berry (Redlands, California, U.S.A.) :** On 5th May 1953 Dr. Joshua L. Baily, Jr. (*San Diego, California, U.S.A.*) and Mr. S. Stillman Berry (*Redlands, California, U.S.A.*) submitted a letter containing a counter-proposal in which they asked that the International Commission should give a Ruling that the work entitled *The Universal Conchologist* should be accepted for nomenclatorial purposes as being a work which satisfied the requirements of Article 25 of the *Règles*. The letter so submitted was as follows :—

**Letter dated 5th May 1953 addressed to the International Commission on Zoological Nomenclature by Joshua L. Baily, Jr. (San Diego, California, U.S.A.) and S. Stillman Berry (Redlands, California, U.S.A.)**

Under the Commission's Reference Z.N.(S.) 634 you have published in Volume 6 of the *Bulletin of Zoological Nomenclature* at page 273 an application from five active students of the systematics of New Zealand Mollusca, asking that *The Universal Conchologist* by Thomas Martyn, published in 1784, be declared unavailable for nomenclatorial

purposes according to the Rules as set out in Volume 4 of the *Bulletin of Zoological Nomenclature* at pages 64—66, but that at the same time the Rules be suspended so that eighteen specific trivial names originated in this work might be validated and conserved, on the ground that they have come into universal use, and that their replacement by later published names “would cause more confusion than uniformity”. These eighteen specific trivial names apply to well-known New Zealand Mollusca.

A similar situation holds with respect to names applied in this work to Pacific American Mollusca. Whether recognition should have been given these names in the first place is a question on which there is likely to be a great diversity of opinion, but which to the undersigned writers appears to be irrelevant. Martyn's names, whether originally proposed in accordance with the Rules or not, have come into universal use, and the statement that their replacement would cause greater confusion than otherwise, is just as applicable to Pacific American Mollusca as to those of New Zealand, and will probably be found to be equally applicable to all the species described in this work. We see no good reason for the sanctification of names pertaining to one area beyond those of another equally concerned area, and we feel, therefore, that the simplest and most efficient way to dispose of the problem offered by *The Universal Conchologist* would be to validate the work as a whole, and then to suppress the few objectionable names in it, if any such should be found to exist. Accordingly, one of the undersigned writers (Bailey) wrote you on January 8th last,<sup>2</sup> requesting that action on this application be deferred pending a further examination of this controversial work. The opportunity to make such an examination has now arisen, as the other undersigned writer (Berry) is the owner of a copy, and accordingly the two of us have united in the following expression of opinion.

The objections urged against the recognition of Martyn's work are based upon two assumptions :

- (a) that the work is not consistently binomial ;
- (b) that it was not published in accordance with the meaning of that term as provided in the rules. (See *Bull. zool. Nomencl.* 4 : 218).

These objections must now be considered separately.

- (a) The rule requiring consistent binomiality was directed against such writers as Klein, Martini, and Chemnitz, all of whom

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<sup>2</sup> For the text of the communication here referred to see paragraph 6 of the present *Opinion*,

decided to designate species by strings of adjectives, which were actually descriptive phrases, rather than names. In other words, these writers employed polynomial nomenclature. But Martyn's system was not polynomial, it was intended to be binomial, in theory at least; in actual practice, however, when he departed from binomialism he used a monomial system—many of his names are monomial. When Martyn used a noun as the specific trivial name in a binomial combination he tended to use it alone, leaving the reader in such cases to supply mentally the name of the genus, which was indicated by the content in most cases.

This is the principal ground upon which Martyn's binomiality is challenged. However, Martyn's offence, strictly speaking, was not that he used a non-binomial system of nomenclature but only that in citing a name that is essentially binomial he sometimes omits the generic term. In such cases the genus can readily be inferred from the content. Thus Martyn did not violate the spirit of the law, but only the letter, and that only if a strained interpretation be placed upon the law. Martyn apparently considered himself a binomial author and would doubtless be surprised if he could know that nearly two centuries after the publication of his work anyone considered him otherwise.

- (b) The charge that the work was not legally published is based upon the fact that very few copies of this work are exactly alike. Some of them lack plates that are present in others—that is to say, some (perhaps all) the known copies are defective. There is nothing in any one copy, as far as the undersigned writers are aware, that contradicts or is inconsistent with anything in any other copy. The fact that some copies are defective is hardly sufficient to justify suppression of the whole work, for the book appeared first nearly two centuries ago, and few questioned its acceptance until within the past few years. Had the acceptability of this work been seriously questioned during the first part of its existence its suppression at the present time might be accomplished with relatively little inconvenience, but in view of the fact that the names proposed in it have met with such general acceptance there seems to be no adequate reason for its suppression at this late date, upon which ground the undersigned writers feel that it would be preferable that the work be declared nomenclatorially available.

If, however, the International Commission should disagree with the views set forth hereinabove, we would like to request an alternative action, namely, that the eleven specific trivial names in the accompany-



ing table<sup>3</sup> be validated separately and placed upon the *Official List of Specific Trivial Names in Zoology*. In fact, we would request this action whether *The Universal Conchologist* be accepted or rejected as a whole.

To summarize the above, we would request the International Commission to take the following action :—

- (1) to declare that the names published in *The Universal Conchologist* in 1784 by Thomas Martyn, are nomenclatorially available as from that date, without suspension of the rules, if possible, but under suspension of the rules if necessary ;
- (2) to validate separately, if necessary, each of the eleven specific trivial names of Pacific American Mollusca published in *The Universal Conchologist*, in the event that this work should be rejected by the Commission ; and
- (3) in any case to place each of the eleven specific names hereinabove referred to on the *Official List of Specific Trivial Names in Zoology*.

**11. Request for the acceptance of the work by Thomas Martyn entitled "The Universal Conchologist" as a nomenclatorially acceptable work submitted by E. P. Chace and eleven other members of the Pacific Division of the American Malacological Union :** On 8th July 1953 there was received in the Office of the Commission the following letter dated 3rd June 1953, signed by Mr. E. P. Chace (*Lomita, California, U.S.A.*) and eleven other members of the Pacific Division of the American Malacological Union, urging the acceptance of Thomas Martyn's work *The Universal Conchologist* as a nomenclatorially available work. The other signatories to this letter were : John Q. Burch (*Los Angeles,*

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<sup>3</sup> For the reasons explained in paragraph 13 below it was later decided to separate from one another the two problems involved in the application originally submitted (paragraph 1 above), namely (a) the question whether the work by Martyn entitled *The Universal Conchologist* is a nomenclatorially available work and (b) the question whether the specific names for certain New Zealand species of Mollusca which appeared in that work should, as recommended in that application, be validated under the Plenary Powers or be otherwise accepted for nomenclatorial purposes. The present *Opinion* is concerned only with the first of these questions, the second question still being under study. Accordingly, the Table containing the specific names of eleven nominal species established by Martyn in the above work, the acceptance of which was asked for by Dr. Baily and Mr. Berry has here been omitted, this question now being the subject of examination on Commission File Z.N.(S.) 1066 simultaneously with the study of the parallel proposals previously submitted in regard to the names of certain species of the New Zealand fauna.

California); William K. Emerson (*University of California, Berkeley, California*); Walter J. Eyerdam (*Seattle, Washington*); Ralph C. Fox (*Berkeley, California*); Wendell O. Gregg (*Los Angeles, California*); Leo G. Hertlein (*California Academy of Sciences, San Francisco, California*); Geo P. Kanakoff (*Los Angeles County Museum, Los Angeles, California*); Myra Keen (*Stanford University, California*); Allyn G. Smith (*Berkeley, California*); V. D. P. Spicer (*Centralia, Washington*); Harry H. Turver (*South Gate, California*)

**Letter dated 3rd June 1953 signed by twelve members of the Pacific Division of the American Malacological Union**

We, the undersigned members of the Pacific Division of the American Malacological Union, meeting in our annual convention at Asilomar, California in June, 1953, have been informed by one of our members, Dr. Joshua L. Baily, Jr., that a petition has been filed with the International Commission on Zoological Nomenclature, to which the Commission's Reference No. Z.N.(S.) 634 has been applied.

The purpose of this petition is to declare a book known as *The Universal Conchologist* written by Thomas Martyn and published in London in 1784 to be nomenclatorially unavailable, but that before it is rejected certain names in it which have met with general acceptance during the nearly two centuries which have elapsed since they were published and which are now universally understood should be made *nomina conservenda* by being entered on the official list being compiled by the International Commission for this purpose.

We are in agreement with the signers of this petition that there are certain irregularities in the way in which this work was published that make it imperative that its status be considered by the Commission and that an opinion be issued in which this specific work shall be dealt with alone.

We are also agreed that in order to stabilize nomenclature it is necessary that certain names be accepted and others rejected, and we can readily understand that names of both kinds might readily occur in the same work, so that the principle maintained by some scholars in the past that a book must inevitably be either accepted or rejected *in toto* is not tenable, nor is it reasonable.

We do not, however, agree on the selection of names to be preserved which has been made by the petitioners. They have requested that names of species found in the general area about New Zealand should be retained, and that names of species found elsewhere should be rejected.<sup>4</sup> A geographic criterion of this sort, we believe, would prove to be very unsatisfactory, and we do not believe that it was the intention of the petitioners to ask for any such criterion. We believe that the petitioners selected these names which they found that they used the most frequently, and that because the petitioners lived in New Zealand the names which they used most frequently were of New Zealand species. We believe that had these petitioners lived in any other general area that the names for which they asked protection would have been those of species in that area. Because we reside on the Pacific Coast of the United States, we believe that the cause of the stabilization of nomenclature would be served by the conservation of those names applied by Martyn to Pacific American species, and we also believe that residents of any part of the world would feel the same way about the names of species of their own region. If this view be correct, then it would follow that the most efficient way to deal with this work would be to declare *The Universal Conchologist* available, and then to suppress by separation the undesirable names in it, should any such be found.

The reasons urged for the suppression of this work are based on two grounds—first, that the work was not published in accordance with the provisions set out in the *Bulletin of Zoological Nomenclature*, Vol. 4 : 218, and—second that it is not consistently binomial. We feel that the arguments on both grounds can be met. Let us consider them in order.

The only way in which this work fails to satisfy the requirements for publications seems to be that all copies are not exactly alike. The first edition of this work dates from 1784, and consists of two volumes, each with forty plates. Later editions have had as many as four volumes, each with forty or even more plates. The observed discrepancies have to some extent come about as the result of comparing copies of different editions, and differences between different editions

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<sup>4</sup> The signatories of this letter were under a misapprehension in believing that the New Zealand zoologists by whom the application had been submitted had asked that names published by Martyn in the work entitled *The Universal Conchologist* for species outside the New Zealand region should be rejected. The applicants made it plain in paragraph 5 of their application that they were aware that problems similar to those with which, as New Zealanders, they were confronted in connection with their own fauna, arose elsewhere but that they considered that it would be better that any application regarding the name of species not occurring in the New Zealand fauna should be brought forward by specialists in the area concerned (see Dell *et al.*, 1952, *Bull. zool. Nomencl.* 6 : 274).

of any work may always be expected. Those who have compared copies of this work almost always fail to state that they have used only the first edition, but in some cases it is obvious that later editions were used. It is difficult to assemble copies of this work for purposes of comparison ; it is a rare and valuable work generally kept under lock and key. We do not know that all the discrepancies reported are due to the comparisons made between different editions, but we know that some have come about in that way.

And if Martyn was not strictly binomial we must remember that neither was Linnaeus. In the 10th edition of the *Systema Naturae*, he used such nomenclatorial combinations as

Anomia Caput sepentis  
 Mytilus Crista galli  
 Conus Stercus muscarum  
 Bulla Auris midae  
 Turbo Tectum persicum  
 Voluta Mitra episcopalis  
 Voluta Mitra papalis

Today we amend the first five of these by joining the last two words with a hyphen, making them a single specific trivial name, but Linnaeus himself did not do this. And we do not amend the last two in this way. Today they are assigned to the genus *Mitra* and to hyphenate the last two words would give us *Mitra mitra-episcopalis*, etc. Instead we call this species *Mitra episcopalis* and credit it to Linnaeus, although using a specific trivial name which Linnaeus himself never used. It might be embarrassing to be asked to throw out Linnaeus on the ground that he was sometimes non-linnaean !

To summarize : We would request action by you to declare this work available for nomenclatorial purposes, on the ground that the names which it contains have been in general use for nearly two centuries and are universally understood, and that the technical defects upon which most objections to it have been based, have been greatly exaggerated.

On making this request we are acting as individuals, and do not express the views of the American Malacological Union or any other organization.

12. Communication received from Professor Harold E. Vokes (The Johns Hopkins University, Baltimore, Maryland, U.S.A.) :  
 On 1st April 1954 Professor Harold E. Vokes (*The Johns Hopkins*

University, Baltimore, Maryland, U.S.A.) in which, after discussing in detail and criticising the proposals for the validation under the Plenary Powers of eighteen specific names for New Zealand Mollusca published in *The Universal Conchologist* of Thomas Martyn which had been included in the original application submitted in this case, he set out as follows his view on the question of the nomenclatorial status of the above work and asked that this question should be separated from that relating to the proposed validation of the specific names for certain New Zealand Mollusca published by Martyn in that work.

. . . I am here asking that the Voting Papers on the matter of Martyn's *Universal Conchologist* be so drawn as to permit a separate ballot on the matter of the suppression of this work for nomenclatorial purposes, and on the problem of "Suspension of the *Règles*" for the New Zealand species. I am in favor of the former, but against blanket suspension for all of the latter, for I feel that the evidence fails to show the need of such suspension.

**13. Decision to divide into two portions the application submitted in the present case, one portion being concerned with the status of the work by Thomas Martyn entitled "The Universal Conchologist", the second with the status to be accorded to specific names for certain New Zealand species of Mollusca published in that work :** By the time of the receipt of the letter from Professor Vokes of the letter from which an extract has been quoted in the preceding paragraph the Prescribed Waiting Period, as previously extended, had expired, and it seemed unlikely that any further light would be forthcoming on the question of the availability under Article 25 of the *Règles* of the work by Thomas Martyn published in London in 1784 under the title *The Universal Conchologist*. This portion of the application now under consideration thus appeared to have reached the stage at which it was ready for submission to the International Commission for decision. The position was, however, quite otherwise as regards that portion of the foregoing application which was concerned with the status to be accorded to the eighteen specific names for New Zealand species of Mollusca. For as regards these names it was necessary for the Office of the Commission to review the



position in regard to each of the names concerned in the light of the particulars furnished by Professor Vokes and, having done so, to enter into further discussions with the New Zealand zoologists by whom the proposals regarding those names had originally been submitted. Towards the close of 1955 considerable progress had been achieved, so far as concerned the names for the eighteen New Zealand species involved, but it seemed clear that some further time would need to elapse before it would be possible for the New Zealand applicants to furnish for the consideration of the International Commission a revised statement reviewing the situation as regards the eighteen names concerned in the light of the observations made by Professor Vokes. During the foregoing period no detailed application for the validation of names published in *The Universal Conchologist* for Pacific Coast species of Mollusca had been communicated to the Office of the Commission, the only information regarding the wishes of American specialists in this matter being that contained in the Summary Table annexed to the letter which on 5th May 1953 Dr. Joshua L. Baily, Jr. and Mr. S. Stillman Berry had submitted to the Commission. At this point the whole position as regards the present application was reviewed by the Secretary from the point of view of the procedure to be adopted for obtaining from the Commission decisions on the issues raised in the present case. Hitherto Mr. Hemming had hoped that it would be possible to secure revised proposals relating to the names for the New Zealand species involved in sufficient time to make it possible simultaneously to submit to the Commission two Voting Papers, each being concerned with one aspect of the present case, the first, dealing with the status to be accorded to *The Universal Conchologist* of Thomas Martyn, the second with the status to be accorded to the eighteen specific names for New Zealand Mollusca published in the foregoing work on which also proposals had been included in the present application, this second Voting Paper to invite a decision on alternative courses of action so drawn that one of the alternatives so submitted would provide a satisfactory basis for a vote, whatever the decision on the general question of the status of Martyn's book taken by the Commission on the earlier of the two Voting Papers in question. In the circumstances as they existed at the end of 1955 it was evident, however, that such a procedure would involve a considerable further delay in the submission to the Commission of a

Voting Paper on the question of the status to be accorded to Martyn's book *The Universal Conchologist*. Mr. Hemming took the view that no further delay in this matter could be justified and accordingly on 6th December 1955 he executed a Minute directing that the subject matter of the application Z.N.(S.) 634 which in October 1951 has been submitted to the International Commission by Dr. R. K. Dell and four other New Zealand specialists be divided so as to form two applications, the first, for which the Registered Number Z.N.(S.) 634 was retained, being concerned with the nomenclatorial status of the foregoing work by Thomas Martyn, the second, to which the new Registered Number Z.N.(S.) 1053, was allotted, being concerned with the names for the New Zealand species of Mollusca published by Martyn in the above book, the validation of which had been sought by Dr. Dell and his colleagues. As part of the foregoing arrangement, the question of the possible validation of certain names published by Martyn for Pacific Coast species of Mollusca, about which in May 1953 Dr. Baily and Mr. Berry had made a preliminary approach to the Commission (paragraph 10 above), was allotted a separate Registered Number (Z.N.(S.) 1066), being thus treated as constituting a separate case.

**14. Submission to the International Commission in January 1956 of alternative proposals on the subject of the status to be accorded to the names published by Thomas Martyn in 1784 in the work entitled "The Universal Conchologist" :** The procedural decisions described in the foregoing paragraph cleared the ground for the submission to the International Commission of proposals for determining the status to be accorded to names published by Martyn in 1784 in the work entitled *The Universal Conchologist*. Accordingly, on 27th January 1956 Mr. Hemming submitted to the International Commission the following paper in which he put forward for consideration alternative methods for dealing with the foregoing question, the first (Alternative "A") designed to give effect to the proposals submitted in 1951 by Dr. Dell and his colleagues, the second (Alternative "B") designed to secure in substance, though not in form, the object sought by Dr. Baily and Mr. Berry in the counter-proposal which they had

submitted in May 1953 and by Mr. E. P. Chace and his colleagues in the following month :—

**Proposed determination of the status of names published in 1784 in the work by Thomas Martyn entitled “The Universal Conchologist”**

By FRANCIS HEMMING, C.M.G., C.B.E.

(Secretary to the International Commission on Zoological Nomenclature)

The present paper is concerned with a proposal relating to a book entitled *The Universal Conchologist* which was published in 1784 and of which further impressions were later issued. This application was published on 23rd July 1952 in Part 9 of Volume 6 of the *Bulletin of Zoological Nomenclature* (Dell (R.K.) *et al.*, 1952, *Bull. zool. Nomencl.* 6 : 273—277).

2. Two questions were involved in this application, namely :—

- (1) Does Martyn's *The Universal Conchologist* satisfy the requirements of Article 25 of the *Règles*? In other words, is this book available under the *Règles* for nomenclatorial purposes?
- (2) If the answer to the above question is in the negative, shall the specific names for certain well-known species of Mollusca found in New Zealand waters be validated by the Commission under its Plenary Powers?

3. The question whether *The Universal Conchologist* is a nomenclatorially available work is dealt with in paragraph 2 of the application submitted. Particulars are there given of the investigations undertaken by, and of the conclusions reached by, the following authorities by whom this subject has been examined; (1) von Martens (1860); (2) Sherborn (1902); (3) Dall (1905; 1907); (4) Iredale (1921); (5) Winckworth (1929). These authorities rejected *The Universal Conchologist* with the exception of von Martens, Sherborn and Dall, of whom the two first accepted only the specific names, while the latter, when accepting both classes of name, did so with evident hesitation. The authorities concerned drew attention (i) to discrepancies as between one copy and another of the above work and (ii) to the use of trinomials, showing that in it Martyn had not consistently applied the principles of binominal nomenclature as required by Article 25 of the *Règles*. On the question of fact there can, in my view, be no doubt that *The Universal Conchologist* fails to pass the tests imposed by Article 25 and therefore that new names in it are not available for nomenclatorial purposes.

4. Once the foregoing conclusion is granted, there are only two courses of action open to the Commission, namely :—

- (a) (i) to give a ruling that the work by Martyn entitled *The Universal Conchologist* published in 1784 does not satisfy the requirements of Article 25 of the *Règles* and accordingly that no name acquired the status of availability by reason of having been published in the above work and (ii) to place the title of the above work on the *Official Index of Rejected and Invalid Works in Zoological Nomenclature*.
- (b) (i) to give a ruling as in (a)(i) above that *The Universal Conchologist* of Thomas Martyn is not available for nomenclatorial purposes, but (ii) to use the Plenary Powers to validate that work and therefore (iii) to place the title of that work, so validated, on the *Official List of Works Approved as Available for Zoological Nomenclature*.

5. In May 1953, Dr. Joshua L. Baily, Jr. (*San Diego, California, U.S.A.*) and Mr. S. Stillman Berry (*Redlands, California, U.S.A.*) addressed a communication<sup>5</sup> to the Office of the Commission discussing the objections which had been raised against the acceptance of Martyn's *The Universal Conchologist* as a nomenclatorially available work and asked that the Commission should pronounce in favour of the availability of the above work or alternatively should use its Plenary Powers to validate certain names published in it for West Coast species of Mollusca. In the following month Mr. E. P. Chace (*Lomita, California, U.S.A.*) with other members of the Pacific Division of the American Malacological Union, addressed a letter to the Commission in which, while admitting that there were certain technical nomenclatorial defects in *The Universal Conchologist* of Martyn, expressed the view that these had been greatly exaggerated by the critics of that work.<sup>6</sup> Mr. Chace and his colleagues went on to recommend that, notwithstanding the foregoing defects, the Commission should "declare this work available for nomenclatorial purposes, on the ground that the names which it contains have been in general use for nearly two centuries and are universally understood". In the form in which it has been submitted this application is inadmissible, for, if the Commission is to give a ruling on the question whether a given book is nomenclatorially available, it is bound to consider that matter solely from the point of view of the provisions of Article 25. In considering such a matter, it is wholly irrelevant whether the book in question is markedly or only slightly at variance with the provisions of the *Règles* or whether, irrespective of the availability of the book, it is desirable that it should be accepted because of the

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<sup>5</sup> See paragraph 10 of the present *Opinion*.

<sup>6</sup> See paragraph 11 of the present *Opinion*.



long-standing nature of the usage of names in that book. Such considerations, however, become relevant if the proposal before the Commission is that a book which is admittedly invalid should nevertheless be validated by the Commission under its Plenary Powers. Accordingly, in order to enable the Commission to take into consideration the applications submitted by Dr. Joshua L. Baily, Jr. and Mr. Stillman Berry and later by Mr. Chace and his colleagues, I here re-submit their proposals in the only form in which they can be so considered, namely, as a request that owing to the long standing and universal usage of many of the names in Martyn's book *The Universal Conchologist*, that work be validated by the Commission under its Plenary Powers.

6. On the question whether it is advisable that the names in *The Universal Conchologist* should be validated *en bloc* under the Plenary Powers, I must draw attention to the statement in paragraph 5 of the application that, so far as the Australian species are concerned, the rejection of *The Universal Conchologist* by Winckworth in 1929 led to the rejection of certain of the names in it by some specialists. It would appear therefore that the validation of *The Universal Conchologist en bloc* under the Plenary Powers, far from promoting stability in nomenclature, might actually lead to name-changing in certain cases. It is accordingly recommended, as a matter of procedure, that the Commission should not use its Plenary Powers to validate *en bloc* all the names in *The Universal Conchologist* and that, in so far as it may be desired to preserve certain of the names in *The Universal Conchologist*, the names concerned should be validated individually.

7. In accordance with the procedure adopted in previous similar cases it is proposed that the subject-matter of the Voting Paper now submitted should be confined to the question of the status to be accorded to names published in 1784 in Martyn's *The Universal Conchologist*. Further, it is proposed that on this subject the Commission should be invited to vote affirmatively on one or other of two opposing courses, namely :—

- (1) ALTERNATIVE "A" : Proposed rejection of *The Universal Conchologist* as not being available for nomenclatorial purposes, coupled with a refusal to validate *en bloc* all the names in the above work under the Plenary Powers—the title of the above work to be placed on the *Official Index of Rejected and Invalid Works in Zoological Nomenclature* ;
- (2) ALTERNATIVE "B" : Proposed validation under the Plenary Powers of the work by Thomas Martyn entitled *The Universal Conchologist* published in 1784, and the addition of the title of that work so validated to the *Official List of Works Approved as Available for Zoological Nomenclature*.



8. The question of the possible validation under the Plenary Powers of certain of the specific names for species of Mollusca of the New Zealand fauna which formed the second part of the application here under consideration, is being further investigated in conjunction with the applicants and a Voting Paper will be submitted as soon as possible.<sup>7</sup>

### III. THE DECISION TAKEN BY THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

**15. Issue of Voting Paper V.P.(56)4 :** On 27th January 1956 a Voting Paper (V.P.(56)4) was issued in which the Members of the Commission were invited to vote either for "the proposal styled Alternative 'A' set out in paragraph 7(1) of the paper submitted by the Secretary simultaneously with the present Voting Paper [i.e. in paragraph 7(1) of the paper reproduced in paragraph 14 of the present *Opinion*] ((a) rejection of Martyn's *The Universal Conchologist* as not being available for nomenclatorial purposes, (b) refusal to use the Plenary Powers to validate *en bloc* all the names in the above work, (c) addition of the title of the above work to the *Official Index of Rejected and Invalid Works in Zoological Nomenclature*)" OR for "the proposal styled Alternative 'B' set out in paragraph 7(2) of the paper submitted by the Secretary simultaneously with the present Voting Paper [i.e. in paragraph 7(2) of the paper referred to above] ((a) validation under the Plenary Powers of Martyn's *The Universal Conchologist* and (b) addition of the title of that work to the *Official List of Works Approved as Available for Zoological Nomenclature*)".

**16. The Prescribed Voting Period :** As the foregoing Voting Paper was issued under the Three-Month Rule, the Prescribed Voting Period closed on 27th April 1956.

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<sup>7</sup> A Voting Paper (V.P.(O.M.)(57) 1) on this subject was submitted to the International Commission on 11th February, 1957 and voting is now in progress.

**17. Particulars of the Voting on Voting Paper V.P.(56)4 :** At the close of the Prescribed Voting Period, the state of the voting on Voting Paper V.P.(56)4 was as follows :—

- (a) *Votes in favour of “ Alternative ‘ A ’ ” had been given by the following nineteen (19) Commissioners (arranged in the order in which Votes were received) :*

Vokes ; Hering ; Mayr ; Lemche ; Bradley (J.C.) ;  
do Amaral ; Dymond ; Prantl ; Key ; Bonnet ; Mertens ;  
Riley ; Sylvester-Bradley ; Hemming ; Jaczewski ;  
Hankó ; Esaki ; Boschma ; Cabrera ;

- (b) *Votes in favour of “ Alternative ‘ B ’ ”, five (5) :*

Kühnelt ; Stoll ; Bodenheimer ; Tortonese ; Miller ;

- (c) *Voting Paper not returned, one (1) :*

Holthuis.

**18. Declaration of Result of Vote :** On 28th April 1956, Mr. Hemming, Secretary to the International Commission, acting as Returning Officer for the Vote taken on Voting Paper V.P.(56)4, signed a Certificate that the Votes cast were as set out in paragraph 17 above and declaring that the proposal submitted with the foregoing Voting Paper as Alternative “ A ” had been duly adopted and that the decision so taken was the decision of the International Commission in the matter aforesaid.

**19. Preparation of the Ruling given in the present “ Opinion ” :** On 24th November 1956, Mr. Hemming prepared the Ruling given in the present *Opinion* and at the same time signed a Certificate that the terms of that Ruling were in complete accord with those of the proposal approved by the International Commission in its Vote on Voting Paper V.P.(56)4.

20. At the time of the submission of the present application the name applicable to the second portion of a binomen was "trivial name". This was altered to "specific name" by the Fourteenth International Congress of Zoology, Copenhagen, 1953, which at the same time made corresponding changes in the titles of the *Official List* and *Official Index* of names of this category. These changes in terminology have been incorporated in the Ruling given in the present *Opinion*.

21. The prescribed procedures were duly complied with by the International Commission on Zoological Nomenclature in dealing with the present case, and the present *Opinion* is accordingly hereby rendered in the name of the said International Commission by the under-signed Francis Hemming, Secretary to the International Commission on Zoological Nomenclature, in virtue of all and every the powers conferred upon him in that behalf.

22. The present *Opinion* shall be known as *Opinion* Four Hundred and Fifty-Six (456) of the International Commission on Zoological Nomenclature.

DONE in London, this Twenty-Fourth day of November, Nineteen Hundred and Fifty-Six.

*Secretary to the International Commission  
on Zoological Nomenclature*

**FRANCIS HEMMING**